

safety belt that maintains the integrity of said containment area for containment of liquid spills within said mat.

17. (Once Amended) A device for a moving vehicle having an [protecting the] interior seat, seat back and foot well, said foot well having horizontal and vertical surfaces [of the foot
5 well of a moving vehicle], for protecting said interior seat, seat back, and foot well surfaces from being soiled by a child in a safety seat, comprising:

a mat having a perimeter and having a conformal surface for
10 placement between a safety seat having a base and a lateral confinement, and the seat of a vehicle, said mat having a flange extending outwardly at least 1 inch from said mat conformal surface, said flange extending around at least a portion of the
perimeter of said mat to define a containment area for
15 containment of liquid spills within said mat, and said conformal surface of said mat includes a horizontal portion that conforms to said seat, a vertical portion that conforms to said vertical foot well surface, and a horizontal portion that conforms to said horizontal foot well surface.

REMARKS

Claims 1, 11 and 17 have been identically amended to more particularly point out and distinctly claim the present invention.

-3-

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In particular, the order of recitation of the components of a vehicle seat, namely, the "interior seat", "seat back" and "foot well" has been revised to provide an antecedent basis for the use of such terms in the claims. Support for these amendments can be found in the original claims, on page 4 of the specification, lines 11-16, on page 9 of the specification, lines 17-21, and on page 17 of the specification, lines 4-10 and 19-22. The recitation of the mat "perimeter" has been revised to provide an antecedent basis for the use of this term in the claims. Support for these amendments can be found in the original claims, on page 4 of the specification, lines 16-20, on page 11 of the specification, lines 17-18, and on page 16 of the specification, lines 21-26. The recitation of the safety seat "base" has been revised to provide an antecedent basis for the use of this term in the claims. Support for these amendments can be found on page 17 of the specification, lines 12-13. The recitation of the safety seat "lateral confinement" has been revised to provide an antecedent basis for the use of this term in the claims. Support for these amendments can be found in the original claims and on page 10 of the specification, lines 12-14.

I. The Examiner's Election/Restriction
Requirement Under 35 U.S.C. § 121

In the previous office action, the Examiner required the Applicant under 35 U.S.C. § 121 to elect a single disclosed species

for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

In accordance with the Applicant's previous election of species, the Examiner has withdrawn Claims 2, 7, 8, 10, 15, 16, and 20 from further consideration pursuant to 37 C.F.R. §1.142(b) as being directed to a non-elected species.

II. The Rejection of Claims 1, 3-6, 9, 11-14, and 17-19 Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected Claims 1, 3-6, 9, 11-14 and 17-19 under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter Applicant regards as the invention. In particular, the Examiner states that the following words or phrases lack antecedent basis, namely: "the interior seat" (Claim 1, line 1; Claim 11, line 1; Claim 17, line 1), "the lateral confinement" (Claim 1, lines 8-9; Claim 9, line 2; Claim 11, lines 8-9; Claim 18, line 3), "the perimeter" (Claim 1, line 11; Claim 5, line 4; Claim 11, line 12; Claim 17, line 10), "the base" (Claim 1, line 14; Claim 13, line 2), and "the footwell" (Claim 17, line 2). Claims 3, 4, 6, 12, 14, and 19 were rejected as being dependent upon a rejected base claim.

Applicant traverses and requests withdrawal of the Examiner's rejection of Claims 1, 3-6, 9, 11-14 and 17-19 under 35 U.S.C. § 112, second paragraph. It is noted that Claims 1, 11 and 17 have been amended to include the correct order of recitation of

"interior seat", "lateral confinement", "perimeter", "base", and "footwell". It is believed that these amendments provide proper antecedent basis for the recitation of these terms in Claims 1, 11 and 17. Claims 3, 4, 6, 12, 14, and 19, which were rejected as being dependent upon a rejected base claim, are now believed to have antecedent basis as a result of the amendments to Claims 1, 11, and 17. It is further believed that the recitation of "the lateral confinement" in Claim 18, which is dependent upon Claim 17 also has antecedent basis as a result of the amendments to Claim 17.

In light of the described amendments to Claims 1, 11 and 17, it is respectfully requested that the Examiner withdraw the rejection of Claims 1, 3-6, 9, 11-14 and 17-19 under 35 U.S.C. § 112. It is also respectfully, and specifically requested that Claim 18, which has not been rejected by the Examiner on any other basis be allowed.

III. The Examiner's Rejection of Claims 1, 4, 5,
9, 11 and 13 Under 35 U.S.C. § 103(a)

The Examiner rejected Claims 1, 4, 5, 9, 11 and 13 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,549,383, issued to Gaudet et al.

The Examiner states that Gaudet et al. reveals a car seat mat with a conformal surface (12) having a horizontal portion (18) with a lateral dimension that conforms to a seat surface, and a vertical

portion (24) with a longitudinal dimension that conforms to a vertical foot well surface. The Examiner states that Gaudet et al. reveals a flange (25), a containment area (space lying between flanges 25) and a pass-through (22). The Examiner states that a second flange (14) maintains the integrity of the containment area with respect to the pass-through (22) as shown in Gaudet's Figure 3.

The Examiner further states that Gaudet et al. do not explicitly teach flanges that extend outwardly at least one inch from the conformal surface or a lateral dimension that extends beyond the lateral confinement of said safety seat by at least three inches, but that it is the Examiner's opinion that both the one inch dimension of the flanges and the three inch extension of the lateral dimension beyond the lateral confinement of the safety seat is a matter of design choice. In the Examiner's opinion, it would be obvious to one of ordinary skill in the art at the time of the instant invention to require that the outwardly extending dimension of the flanges (25) of Gaudet et al. to measure at least one inch and to require that the lateral dimension to extend at least three inches beyond the lateral confinement of the safety seat. The Examiner further explains that such a requirement would ensure the prevention of "accidental spillovers of liquid from the mat top surface laterally outward therefrom" (column 4, line 34-36), and that such a requirement for the lateral dimension would ensure that spills originating from a child's hand hanging over the

side of the safety seat would land within the conformal surface of the mat.

The Applicant traverses the Examiner's rejection of Claims 1, 4, 5, 9, 11 and 13 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,549,353, issued to Gaudet et al. Specifically, it is respectfully submitted that Gaudet et al. do not teach the confinement area claimed in the present invention as stated by the Examiner. In addition, it is respectfully submitted that Gaudet et al. discloses information which teaches away from both (a) the containment area claimed in the present invention and (b) the lateral extension of the mat beyond the lateral confinement of the safety seat. Further, it is respectfully submitted that, there is no teaching or suggestion in Gaudet et al. to make either, much less both, of the modifications suggested by the Examiner as obvious to one of ordinary skill in the art, namely, the outward extension of the flanges (25), or the lateral extension of the mat beyond the lateral confinement of the safety seat. The only suggestion to make such a combination comes directly from Applicant's disclosure, and it is respectfully submitted that this is an un-permitted hindsight creation of the claimed invention.

Initially, the Applicant notes that the device described by Gaudet et al. is for use beneath a child's restraint seat to protect the car seat and straddling vertical body panel between the car seat and car flooring against accidental dirt spills from the bare feet, shoes or boots of the child sitting on its restraint

seat (column 1, lines 48-53). The device in Gaudet et al. includes a "main section" (also referred to as the "main sheet portion") and a "lip portion" coextensive with the main section, wherein the lip portion is sized for conforming to the seat portion of the child restraint seat and the main section is sized for overlapping the vertical car body panel straddling the front end of the fixed seat and the automobile flooring (column 1, lines 61-66). Thus, the lip portion (18) as shown in Figure 1 relates to the portion of the mat in conformity with the child's restraint seat, and the main sheet portion (24) as shown in Figure 1 is that portion of the device that overhangs the front of the automobile seat surface.

As applied by the Examiner, the flange (25) described in Gaudet et al. does not define a containment area as claimed in the present invention. In the lip portion (18) of the Gaudet et al. mat, a hole in the mat surface described as a pass-through (22) as shown in Figure 1, would allow fluid in the lip portion to spill onto the automobile seat surface below the child restraint seat. Indeed, Gaudet et al. do not show, describe, or suggest the use of a "second flange extending around a perimeter of the pass through", as stated by the Examiner. As a result, the lip portion (18) of Gaudet et al. does not include a "flange outwardly extending ... from said conformal surface ... to define a containment area for containment of liquid spills within the mat" as claimed in the present invention. Moreover, the Examiner's suggestion that the requirement that the flanges extend at least one inch would ensure

the prevention of "accidental spillovers of liquid from the mat top surface (24) laterally outward therefrom" (column 4, lines 34-36) is misplaced, because this reference in Gaudet et al. to the "mat top surface" relates to the outward facing surface of the vertical main sheet portion (24) of the mat and not the lip portion conforming to the seat portion of the child's restraint seat.

It is respectfully submitted that Gaudet et al. also teach away from the present invention in two crucial respects - both of which the Examiner attempts to extend by way of opinion to maintain an obviousness rejection of the claims. First, and as previously discussed, Gaudet et al. do not teach a "flange outwardly extending ... from said conformal surface ... to define a containment area for containment of liquid spills within the mat" as claimed in the present invention. Instead, Gaudet et al. clearly show, and describe a hole in the mat surface described as a pass-through (22) as shown in Figure 1, that would allow fluid in the lip portion to spill onto the automobile seat surface below the child restraint seat. Accordingly, Gaudet et al. teaches away from the claimed features.

Second, Gaudet et al. clearly teach away from the extension of the lateral dimension of the mat beyond the lateral confinement of the safety seat. As shown in Figure 1 of Gaudet et al., and as described at line 30 of column 3, the lip portion (18) of the mat is tapered inwardly relative to the lateral dimension - precisely the opposite of what the Examiner states it would have been obvious

to one of skill in the art to do, namely to modify Gaudet et al., to require the lateral dimension (width of horizontal portion 18) to extend at least three inches beyond the lateral confinement of the safety seat. Again, Gaudet et al. teaches away from the claimed features.

Applicant respectfully submits that the Examiner must consider the teachings of the Gaudet et al. reference in its entirety, and cannot pick and choose only so much of the reference as will support the Examiner's position. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 U.S.P.Q. 416, 419 (Fed. Cir. 1986). In this regard, by picking and choosing among the isolated disclosure of flanges (25, 14), the top lip portion (18), and ignoring the teachings contrary to the claimed invention (pass-through in the lip portion and an inwardly tapered lip portion), the Examiner has improperly engaged in hindsight analysis to establish obviousness under 35 U.S.C. § 103(a). In re Fine, 5 U.S.P.Q. 2d 1596, 1599-1600 (Fed. Cir. 1988).

Moreover, it is noted that Gaudet et al. is primarily directed toward protection against "accidental dirt spills from the bare feet, shoes or boots of the child sitting on its restraint seat" (underlining added) (column 1, lines 48-53, and column 2, lines 11-14). It is respectfully submitted that it would not have been obvious to one of ordinary skill in the art at the time of the instant invention to require extension of the inwardly tapered lateral dimension disclosed in Gaudet et al. to "ensure that spills

originating from a child's hand hanging over the side of the safety seat would land within the conformal surface of the mat" (underlining added), as stated by the Examiner on pages 4-5 of the present Office Action. Applicant submits that, there is no teaching or suggestion in Gaudet et al. to make either, much less both, of the modifications suggested by the Examiner as obvious to one of ordinary skill in the art, namely, the outward extension of the flanges (25), or the lateral extension of the mat beyond the lateral confinement of the safety seat. The only suggestion to make such a combination comes directly from Applicant's disclosure, and it is respectfully submitted that this is a further unpermitted hindsight creation of the claimed invention. In re Fine, 5 U.S.P.Q. 2d at 1599-1600. Indeed, absent such a suggestion or teaching in Gaudet et al., the Examiner must allow the claims, as amended.

Based on the foregoing, Applicant respectfully requests the Examiner withdraw the rejection of Claims 1, 4, 5, 9, 11 and 14 under 35 U.S.C. § 103(a).

IV. The Examiner's Rejection of Claim 3
Under 35 U.S.C. § 103(a)

The Examiner rejected Claim 3 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,549,353, issued to Gaudet et al. as applied to Claim 1 previously, and further in view of U.S. Patent No. 6,276,752, issued to Conte.

The Examiner states that Gaudet et al. reveal all claimed elements with the exception of a device that is foldable. The Examiner states that Conte shows a protective container for motor vehicle seating that is formed of a material that is flexible enough to allow it to be folded for storage. In conclusion, the Examiner states that it would have been obvious to one of skill in the art at the time of the instant invention to substitute the material used by Gaudet et al. with the foldable material taught by Conte.

Applicant traverses the Examiner's rejection of Claim 3 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,549,353, issued to Gaudet et al. as applied to Claim 1 previously, and further in view of U.S. Patent No. 6,276,752, issued to Conte. Applicant notes that Gaudet et al. is the primary reference relied upon by the Examiner. It is respectfully submitted that the Applicant has made a persuasive and clear showing above that Gaudet et al. does not reveal all claimed elements with the exception of a device that is foldable. Accordingly, Gaudet et al., even if combined with Conte as suggested by the Examiner does not contain all of the elements of Claim 3, and therefore cannot form the basis of an obviousness rejection of Claim 3.

Based on the foregoing, Applicant respectfully requests the Examiner withdraw the rejection of Claim 3 under 35 U.S.C. § 103(a).

V. The Examiner's Rejection of Claims 6, 14
and 17 Under 35 U.S.C. § 103(a)

The Examiner rejected Claims 6, 14 and 17 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,549,353, issued to Gaudet et al. as applied to Claims 1 and 11 previously, and further in view of U.S. Patent No. 5,120,108, issued to Watson.

The Examiner states that Gaudet et al. shows all of the claimed elements except a horizontal portion that conforms to a horizontal foot well surface. The Examiner states that Watson et al. "teaches a horizontal portion (22) that conforms to foot well [sic] surface in order to protecting [sic] the floor." In conclusion, the Examiner states that it would have been obvious to one of skill in the art at the time of the instant invention to add the horizontal portion taught by Watson et al. to the bottom edge of the car seat protector taught by Gaudet et al.

Applicant traverses the Examiner's rejection of Claims 6, 14 and 17 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,549,353, issued to Gaudet et al. as applied to Claims 1 and 11 previously, and further in view of U.S. Patent No. 5,120,108, issued to Watson. Applicant notes that Watson et al. is directed to a combination seat, equipment holder and ice skate protector device for use by ice skaters. The Watson et al. protector device contains a third panel hinged to a second panel which sits upon the floor in front of a dressing room bench so that

ice skates can rest upon the panel for protection (column 2, lines 4-8).

First, Applicant notes that Gaudet et al. is the primary reference relied upon by the Examiner. It is respectfully submitted that the Applicant has made a persuasive and clear showing above that Gaudet et al. does not reveal all claimed elements with the exception of a horizontal portion that conforms to the foot well surface in order to protect the floor. Accordingly, Gaudet et al., even if combined with Watson et al. as suggested by the Examiner does not contain all of the elements of Claims 6, 14, and 17, and therefore cannot form the basis of an obviousness rejection of those claims.

Second, Applicant respectfully submits that it is improper for the Examiner to combine Gaudet et al. with Watson et al. to arrive at the claimed invention. Specifically, Gaudet et al. clearly teach away from the combination suggested by the Examiner. In distinguishing prior art Canadian Patent No. 1,294,206 in column 1, lines 34-45, Gaudet et al. state that "[e]xtending the length of the fabric mat sheet is not the solution, since in that case, the fabric mat sheet will be liable to be accidentally displaced and become offsetted for various reasons ..." Accordingly, Gaudet et al. specifically, and unequivocally teach away from extension of the mat to include "a horizontal portion that conforms to a foot well surface" as suggested by the Examiner. Once again, Applicant respectfully submits that the Examiner must consider the teachings

of the Gaudet et al. reference in its entirety, and cannot pick and choose only so much of the reference as will support the Examiner's position. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 U.S.P.Q. 416, 419 (Fed. Cir. 1986). Applicant submits that to combine Gaudet et al. with Watson et al. would be improper in light of the clear teaching away in Gaudet et al. of the combination suggested by the Examiner.

For the reasons stated above, Applicant respectfully requests the Examiner withdraw the rejection of Claims 6, 14 and 17 under 35 U.S.C. § 103(a).

VI. The Examiner's Rejection of Claims 12
and 19 Under 35 U.S.C. § 103(a)

The Examiner rejected Claims 12 and 19 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,549,353, issued to Gaudet et al. and U.S. Patent No. 5,120,108, issued to Watson, as applied to Claims 11 and 17 previously, and further in view of U.S. Patent No. 4,728,151, issued to Neufeld.

The Examiner states that Gaudet et al. and Watson et al. show all the claimed elements with the exception of explicitly teaching a device that is capable of containing more than one half liter of liquid. The Examiner states that Neufeld reveals a child's feet receiving device for use on a vehicle seat with dimensions that reveal a containment area which is approximately equal to 2.7 liters. In conclusion, the Examiner states that it would have been

obvious to one of ordinary skill in the art at the time of the instant invention to use the dimensions taught by Neufeld in the construction of the seat protecting devices shown by Gaudet et al. and Watson et al. Further, the Examiner states that the specification of such dimensions would provide "a sufficient channel for liquid running off the surface to communicate it toward the ground" (column 3, lines 24-25).

Applicant traverses the Examiner's rejection of Claims 12 and 19 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,549,353, issued to Gaudet et al. and U.S. Patent No. 5,120,108, issued to Watson, as applied to Claims 11 and 17 previously, and further in view of U.S. Patent No. 4,728,151, issued to Neufeld.

First, Applicant notes that Gaudet et al. and Watson et al. are the two primary reference relied upon by the Examiner. It is respectfully submitted that the Applicant has made a persuasive and clear showing above that Gaudet et al. does not reveal all claimed elements with the exception of a horizontal portion that conforms to the foot well surface in order to protect the floor. Accordingly, Gaudet et al., even if combined with Watson et al. as suggested by the Examiner does not contain all of the elements of Claims 12 and 19, and therefore cannot form the basis of an obviousness rejection of those claims.

Second, Applicant respectfully submits that it has made a clear and persuasive showing above that is improper for the

Examiner to combine Gaudet et al. with Watson et al. to arrive at the claimed invention, because Gaudet et al. clearly teach away from the combination with Watson et al. Accordingly, Gaudet et al. cannot be combined with Watson et al. to form the basis of an obviousness rejection of Claims 12 and 19.

Finally, Applicant respectfully submits that even in combination, Gaudet et al., Watson et al., and Neufeld do not teach a device that is capable of containing more than one half liter of liquid. Applicant notes that Neufeld is directed toward a child's feet receiving device for use on a vehicle seat (column 1, lines 6-7). The Neufeld device contains a surface, sidewalls and an apron to provide a channel sufficient for liquid running off the surface to communicate it toward the ground (column 3, lines 24-25). In contrast to the present invention, Neufeld does not teach containment of liquid. Instead, Neufeld teaches control of the flow of liquid from the feet of a child on a vehicle seat to the floor, which prevents liquid from running from the device onto the vehicle seat (column 1, lines 41-44). In this regard, Neufeld is duplicative of the disclosure of Gaudet et al., and even if improperly combined with Gaudet et al. and/or Watson et al. as stated above, it does not disclose each and every element in Claims 12 and 19, which require containment of more than one-half liter of liquid.

For the reasons stated above, Applicant respectfully requests the Examiner withdraw the rejection of Claims 12 and 19 under 35

U.S.C. § 103(a).

It is believed that all of the issues raised by the Examiner in the November 7, 2002 Office Action are addressed herein. Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. Should the Examiner maintain any of the rejections or make new rejections of any of the pending claims, it is respectfully requested that it be pointed out with particularity how the cited reference(s) meet each and every term of each claim with respect to which the rejection is maintained. In the absence of a persuasive showing to that effect, the noted claims should be allowed. In addition, in the event that a generic claim is held to be allowable by the Examiner, it is requested that the Examiner withdraw the restriction of the claims under 35 U.S.C. § 121.

It is further believed that no fees are due for filing this Amendment and Response.

In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned attorney at (760) 458-1863.

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